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Attorneys for Superior Foods, Inc. and Superior Foods International, LLC

# IN THE UNITED STATES BANKRUPTCY COURT

# DISTRICT OF OREGON

In re:	) Case No. 19-62584-pcm11
	) LEAD CASE
NORPAC Foods, Inc., Hermiston	
Foods, LLC, and Quincy Foods,	) (Jointly Administered with Case
LLC,	) Nos. 19-33102-pcm11 and
	) 19-33103-pcm11)
Debtors.	)
	) OMNIBUS LIMITED OBJECTION TO:
	) (A) PROPOSED ORDER GRANTING
	) COBANK, ACB RELIEF FROM THE
	) AUTOMATIC STAY; (B) CASTLE
	) ROCK FARMING, LLC'S
	) EMERGENCY MOTION FOR RELIEF
	) FROM AUTOMATIC STAY [DOC. 375];
	) AND (C) SEMINIS VEGETABLE
	) SEEDS, INC.'S EMERGENCY MOTION
	) FOR RELIEF FROM AUTOMATIC
	) STAY [DOC. 377]

1	COM	ME NOW, Superior Foods, Inc. ("SF") and Superior Foods International, LLC
2	("SFI") (SF	and SFI are the "Superior Creditors"), by and through undersigned counsel, and file
3	this omnibu	s limited objection to the (A) Proposed Order Granting CoBank, ACB Relief from
4	the Automa	tic Stay [Docs. 327, Exhibit A] ("CoBank Request"); (B) Castle Rock Farming,
5	LLC's Emer	rgency Motion for Relief from the Automatic Stay ("Castle Rock Motion") [Docs.
6	375]; and (C	C) Seminis Vegetable Seeds, Inc. 's Emergency Motion for Relief form Automatic Stay
7	("Seminis N	Motion") [Docs. 377] (together, the "Stay Relief Requests"). In support of their
8	limited obje	ction, Superior Creditors state as follows:
9		I. <u>FACTUAL BACKGROUND</u>
10	1.	Debtors filed their voluntary petition for relief under Chapter 11 of Title 11 of
11	the United S	tates Code (the "Bankruptcy Code") on August 22, 2019 (the "Petition Date").
12	2.	Debtors are continuing in possession of their business and property as debtors-
13	in-possessio	n pursuant to Sections 1107 and 1108 of the Bankruptcy Code.
14	3.	Debtors are purchasers of wholesale quantities of produce and licensed under the
15	provisions o	f the Perishable Agricultural Commodities Act, 7 U.S.C. § 499a, et seq. ("PACA").
16	See PACA I	cicense Information, attached hereto as Exhibit A. 1
17	4.	Superior Creditors' pre-petition PACA trust sales have been paid pursuant to the
18	Order Grant	ting Debtors' Motion for Authority to Pay Prepetition PACA Claims [Doc. 50].
19	5.	SFI has continued to supply Debtors post-petition. Post-petition, SFI sold and
20	delivered to	Debtors, in interstate commerce or contemplation thereof, wholesale quantities of
21	produce hav	ving the aggregate principal value of \$88,890.00, all of which was accepted by
22	Debtors and	will be due and payable as follows:
23	///	
24	///	
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<sup>&</sup>lt;sup>1</sup> PACA license information is published by the USDA's Agricultural Marketing Service at 26 https://usdaams.service-now.com/public\_search.

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Invoice No.	<b>Balance</b>	<u>Due Date</u>
435699	\$33,880.00	11/17/19
435073	\$27,550.00	11/21/19
435074	\$27,550.00	11/24/19
Principal Balance	\$88,980.00	

SFI's PACA license information, statement of account, and unpaid invoices are attached hereto as Exhibit B.

- 6. SFI is licensed under PACA and timely preserved its interest in the statutory trust arising under PACA by including the statutory language on the face of its invoices to Debtors. 7 U.S.C. § 499e(c)(4). See Exhibits A and B.
- 7. On September 25, 2019, this Court entered the Amended Final Order Granting Debtors' Motion for Authorization to Obtain Secured Credit (Amended Only for Purpose of Attaching Budget) (the "DIP Order") [Doc. 202]. The DIP Order provides in relevant part that the Post-petition Indebtedness of CoBank "shall be secured by a security interest and lien on all present and future property of the Estates"... "which lien and security interest shall have priority over all other liens, claims and expenses in Debtors' Cases except with respect to the... valid beneficiaries of assets subject to a trust arising under PACA (as defined in the Credit Agreement)." DIP Order ¶ 8(a)(ii) (emphasis added). The DIP Order further provides,

PACA. Notwithstanding anything to the contrary contained therein, nothing in this Order, any interim order, the Credit Agreement, or the other Loan Documents, shall be construed to prime, subordinate, diminish or impair the rights of valid trust beneficiaries under the Perishable Agricultural Commodities Act, 7 U.S.C. § 499e(c) ("PACA"), and nothing contained in this Order, any interim order, the Credit Agreement, or the other Loan Documents shall be construed to require that valid PACA beneficiaries must bring a Challenge in order to assert or preserve such rights. In the event of a Specified Sale or a sale of any of the Debtors' assets, including in the event of a credit bid, sufficient funds must be set aside to ensure any valid PACA claims which remain unpaid are paid in full.

DIP Order ¶ 27.

8. On November 1, 2019, CoBank filed the CoBank Request attesting to certain defaults by the Debtors and requesting immediate lifting of the automatic stay so that CoBank

- can assert all rights available to it under law, including but not limited to appointment of a state or federal receiver. [Doc. 327]. The hearing on the CoBank Request was continued to November 12, 2019. Attempts to consensually resolve Superior Creditors' concerns were unsuccessful.
- 9. Castle Rock Farming, LLC ("Castle Rock") asserts that it is a senior lienholder in "all agriculture produce of NORPAC, all proceeds therefrom, and all other inventory of NORPAC, that is, a senior Lien in a portion of Debtors' assets that CoBank seeks to monetize." Castle Rock Motion ¶ 18. Similarly, Seminis Vegetable Seeds, Inc. ("Seminis") asserts it has a has a "senior Lien in the Grain and proceeds thereof, that is, a senior Lien in a portion of Debtors' assets that CoBank seeks to monetizes." Seminis Motion ¶ 20. In their respective Motions, both filed on November 8, 2019, Castle Rock and Seminis request that they be permitted to pursue all rights and remedies available under applicable law, including against collateral secured by their liens, among other relief. Castle Rock Motion, pp. 5-6; Seminis Motion, pp. 5-6.

# II. ARGUMENT

# A. Scope and Purpose of the PACA Trust.

10. PACA is a remedial statute designed to protect sellers of perishable commodities who, without the statute, would lack any way to secure themselves against non-payment by their customers. H. Rep. No. 543, 98th Cong., 1st Sess. 3 (1983), reprinted in 1984 *U.S. Code Cong & Admin News* ("*USCCAN*") 405, 407. As a remedial statute, PACA "should be given a liberal construction to effectuate its statutory purpose." *Hull Company v. Hauser Foods, Inc.*, 924 F.3d 777, 781 (8th Cir. 1991). In the early 1980's, "Congress determined that the increase in non-payment and delinquent payment by produce dealers threatened the financial stability of produce growers." *Frio Ice, S.A. v. Sunfruit, Inc.*, 918 F.2d 154, 156 (11th Cir. 1990). To remedy this problem, Congress amended PACA in 1984 by creating a statutory trust in Section 499e to "increase the legal protection for unpaid sellers and suppliers of perishable agricultural commodities until full payment of sums due have been received by them." H. Rep. No. 543, 98<sup>th</sup> Cong., 1<sup>st</sup>

Sess. (1983), reprinted in 1984 U.S. Code Cong & Admin News 405, 406.

that the claims of secured creditors cannot trump the claims of valid PACA trust creditors. 49 Fed. Reg. 45735, 45738 (1984) ("While the regulations do not prohibit a buyer or receiver from granting a secured interest in trust assets, they make it clear that the secured interest is secondary and specifically voidable in order to satisfy debts to unpaid suppliers, sellers, or agents in perishable agricultural commodity transactions"); 7 U.S.C. § 499e(c)(1); *S & H Packing & Sales Co. v. Tanimura Distrib.*, 883 F.3d 797, 802 (9th Cir. 2018); *Nickey Gregory Co., LLC v. Agricap, LLC*, 597 F.3d 591, 594 (4<sup>th</sup> Cir. 2010); *A & J Produce Corp. v. Bronx Overall Economic Development Corp.*, 542 F.3d 54, 58 (2d Cir. 2008); *Reaves Brokerage Co. v. Sunbelt Fruit & Vegetable Co.*, 336 F.3d 410, 413 (5th Cir. 2003); *Endico Potatoes v. CIT Group/Factoring*, 67 F.3d 1063, 1067 (2d Cir. 1995); *Tom Lange Co. v. Lombardo Fruit & Produce (In re Lombardo Fruit & Produce Co.)*, 12 F.3d 806, 809 (8th Cir. 1993) (trust requires debtor to use proceeds from sale of produce to pay suppliers before paying secured creditors).

12. The trust provision requires a produce receiver to hold in trust as a fiduciary its produce-related assets, which includes the produce itself, products derived therefrom, as well as any receivables or proceeds from the sale thereof, until full payment is made to the seller. 7 U.S.C. § 499e(c)(2); Sunkist Growers, Inc. v. Fisher, 104 F.3d 280, 282 (9th Cir. 1997); Bear Mountain Orchards, Inc. v. Mich-Kim, Inc., 623 F.3d 163, 166-67 (3d Cir. 2010); Idahoan Fresh v. Advantage Produce, Inc., 157 F.3d 197 (3d Cir. 1998); In re Kornblum & Co., Inc., 81 F.3d 280 (2d Cir. 1996); Sanzone-Palmisano Co. v. M. Seaman Enters., Inc., 986 F.2d 1010 (6th Cir. 1993). The trust is non-segregated and floating, and permits the commingling of trust assets without defeating the trust. S & H Packing, 883 F.3d at 802. Therefore, produce buyers need not segregate PACA trust assets from non-PACA trust assets. But, once funds are commingled, such as when a produce buyer deposits proceeds from the sale of produce and proceeds from the sale of non-produce items into the same bank account, every asset acquired or paid for with commingled funds -- including the

commingled funds themselves -- is presumed a PACA trust asset. Sanzone-Palmisano Co., 986 F.2d at 1014. Thus, each dollar from the sale of produce is to be held in trust for the benefit of all unpaid produce suppliers, and every item acquired with a produce dollar is presumed a PACA trust asset to be held for the benefit of the produce buyer's produce suppliers. Consumers Produce Co. v. Volante Wholesale Produce, 16 F.3d 1374, 1378 (3d Cir. 1994); see In re Kornblum, 81 F.3d at 287; Sanzone-Palmisano Co., 986 F.2d at 1012-13; Consumers Produce Co. v. Fredericktown Produce Co., 2015 U.S. Dist. LEXIS 19869, at \*20 (W.D.Pa. Feb. 19, 2015) ("This prevents circumvention of the intent of the PACA statute by simply converting cash proceeds into other property to be sold by the trustee or, as in this case, assigning an asset, paid for with agricultural proceeds, to a secured lender and leaving produce sellers unprotected.") Even if the secured lender's interest in the property is pursuant to a purchase 13. money security interest, the use of PACA trust funds to acquire, preserve or maintain an asset has the effect of converting the subject asset itself into a PACA trust asset. Chiquita Fresh N. Am., LLC v. Long Island Banana Corp., 2016 U.S. Dist. LEXIS 88494, at \*41 (E.D.N.Y. July 7, 2016) adopted by Chiquita Fresh N. Am., LLC v. Long Island Banana Corp., 2016 U.S. Dist. LEXIS 99495 (E.D.N.Y. July 28, 2016); Restatement (Second) of Trusts § 202(1); George T. Bogert, Trusts, p. 428 (6th Ed.); III A. Scott, Scott on Trusts, § 202 at 1659 (3d Ed.); American Fruit & Vegetable Co., Inc., 848 F.Supp.2d at 377 (W.D.N.Y. 2011) ("where a PACA trustee has improperly caused PACA trust funds to be diverted for the purpose of improving or paying for real property, PACA beneficiaries may seek to recover through a lien on the property"); Mid-Valley Produce Corp. v. 4-XXX Produce Corp., 833 F.Supp. 193 (E.D.N.Y., 1993) (use of PACA trust funds to pay mortgage on home resulted in imposition of constructive trust on home for benefit of PACA creditors); In re Al Nagelberg & Co., Inc., 84 B.R. 19, 21 (S.D.N.Y. Bankr., 1988) ("If, as alleged, there was a wrongful diversion of trust assets, and if those assets can be traced into another asset held by the debtor, the new asset may be impressed with a constructive

trust under ordinary trust principles").

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14. Once proceeds from the sale of produce are commingled with other non-produce proceeds, it is "virtually impossible" for the party challenging the scopes of the trust to show that the asset is not a PACA trust asset. Sanzone-Palmisano Co., 986 F.2d at 1014; see also In re Kornblum & Co., Inc., 81 F.3d at 287; Six L.'s Packing Co. v. West Des Moines State Bank, 967 F.2d 256, 258 (8th Cir. 1992). Even assets acquired before the sales transactions at issue are presumed PACA trust assets, unless a party challenging the scope of the PACA trust can show: (1) no PACA trust existed when the asset was acquired; or (2) although a PACA trust existed at the time, the asset was not acquired with trust assets; or (3) although a PACA trust existed when the asset was acquired, and the asset was acquired with trust assets, all unpaid sellers of produce were paid in full prior to the transactions involving the unpaid PACA trust creditors herein. In re Kornblum & Co., Inc., 81 F.3d at 287.

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This is necessarily so, otherwise the last seller of produce would be excluded from 15. access to the PACA trust assets; or, a produce buyer could defeat the trust by converting PACA assets into other assets that are removed from the sale of produce or its proceeds. Therefore, Courts have held that everything from insurance policy proceeds (Fredericktown Produce Co., 2015 U.S. Dist. LEXIS 19869; Sam Wang Produce, Inc. v. EE Mart FC, LLC, 2010 WL 605082 (E.D. Va. 2010)), to business property, vehicles, and all business equipment paid for with commingled PACA trust funds (Hereford Haven, Inc. v. Ralph Stevens, 1999 WL 155707 (N.D. Tex 1999)) are PACA trust assets. These holdings also extend to real property of the produce buyer. A&J Produce Corp., v. Bronx Overall Economic Development Corporation, 542 F.3d 54 (2d Cir. 2008) (proceeds from the sale of units on the Hunts Point Terminal produce market, which were acquired with PACA trust funds, are PACA trust assets); In re Kornblum & Co., Inc., 81 F.3d at 287 (proceeds from the sale of membership interests and leases on real property, paid for with PACA trust assets, are PACA trust assets): Tony Vitrano Company v. National Produce Co., Inc., 815 F. Supp. 23 (D.D.C. 1993) (proceeds from sale of real property, paid for with PACA trust funds, are PACA trust assets); In re Al Nagelberg & Co., 84 B.R. 19 (Bankr. S.D.N.Y. 1988) (payments to co-op impressed with the PACA trust).

beneficiaries is unlawful. 7 U.S.C. § 499b(4). Produce dealers are required to maintain trust assets so that they are "freely available" to satisfy outstanding obligations to PACA trust beneficiaries, and any act or omission inconsistent with this responsibility, including dissipation of trust assets, is proscribed. *S & H Packing*, 883 F.3d at 802; 7 C.F.R. § 46.46(d)(1). Dissipation of trust assets, defined as the diversion of trust assets or the **impairment of a seller's right to obtain payment** (7 C.F.R. § 46.46(a)(2)), is forbidden. 7 C.F.R § 46.46(d)(1) (emphasis added).

17. When a produce buyer files for bankruptcy protection, the PACA trust assets are not part of the debtor's estate. 11 U.S.C. § 541(d); 49 Fed. Reg. 45735, 45738; *S & H Packing,* 883 F.3d at 803; *Sunkist Growers v. Fisher,* 104 F.3d 280, 282 (9th Cir. 1997) ("Ordinary principles of trust law apply to trusts created under PACA, so that for instance the trust assets are excluded from the estate should the dealer go bankrupt."); *In re Southland & Keystone,* 132 B.R. 632 (9th Cir. BAP 1991); *In re Kelly Food Products, Inc.,* 204 B.R. 18 (Bankr. C.D. Ill. 1997); *Morris Okun, Inc. v. Harry Zimmerman, Inc.,* 814 F. Supp. 346, 348 (S.D.N.Y. 1993).

18. "PACA trust beneficiaries are entitled to full payment before trustees may lawfully use trust funds to pay other creditors." *C.H. Robinson Company v. Alanco Corp.*, 239 F.3d 483, 488 (2d Cir. 2001). PACA's trust provision "effectively vitiates a lender's security interest in trust assets held by produce purchasers vis-a-vis unpaid produce suppliers." *Volante Wholesale Produce*, 16 F.3d at 1379. PACA's trust provisions provide that unpaid produce sellers "are placed first in line among creditors for all produce-related assets if the produce dealer declares bankruptcy." *Frio Ice, S.A.*, 918 F.2d 154; *see also, In re Kornblum & Co.*, 81 F.3d 280; *Sanzone-Palmisano Company*, 986 F.2d 1010. "It is clear from the terms of the PACA amendments and from the supporting legislative history that Congress intended to create a *priority* status for unpaid produce claimants, priming even the administrative claims which normally stand first in line in a bankruptcy distribution." *In re Fresh Approach, Inc.*, 51 B.R. 412, 420 (Bankr. N.D. Tex. 1985) (emphasis in

original).

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# B. Relief Requested by CoBank. Castle Rock, and Seminis.

- Here, CoBank asserts that the rights conferred to it in the DIP Order allow it to 19. obtain immediate relief from the automatic stay. CoBank Request, p. 2. CoBank's intentions and the scope of the relief demanded by it are unknown. Castle Rock assets it is a senior lienholder in all of Norpac's agricultural products, proceeds therefrom, and inventory; Seminis asserts it has a senior lien to grain and the proceeds therefrom. Castle Rock Motion ¶ 18; Seminis Motion ¶ 20. But, all assets of the Debtors are presumed to be impressed with the PACA trust. 7 U.S.C. § 499e(c)(2). CoBank, Castle Rock, and Seminis cannot be permitted to exercise dominion over, control or take possession of assets impressed with the PACA trust while PACA trust creditors are unpaid. Allowing a secured creditor to take possession of assets impressed with the trust while PACA beneficiaries are unpaid is a violation of PACA. 7 U.S.C. § 499e(c)(1); see In re Kornblum, 81 F.3d at 287. CoBank has conceded that PACA applies to this matter, that its Postpetition Indebtedness is subject and subordinate to the rights of PACA creditors, and the DIP Order specifically provides that the rights of PACA trust creditors are preserved. CoBank has agreed to a forbearance agreement with the Debtors, which was approved by the Court on November 6, 2019, but that agreement expires on November 15, 2019. SFI's outstanding sales to Debtors will be due from November 17-24, 2019. By that time, the forbearance agreement will have expired, and if CoBank, Castle Rock, and Seminis are granted the broad and unfettered relief they request, the disposition of the PACA trust assets belonging to SFI, and similarly situated PACA trust creditors, will be unknown.
- 20. Allowing relief from the automatic stay, and the exercise of potentially broad remedies by Debtors' secured lenders, without also requiring that PACA trust funds be segregated and paid would violate the requirement that trust funds be maintained such that they are freely available to pay PACA beneficiaries and constitute dissipation of trust funds, which is expressly forbidden. 7 C.F.R § 46.46(d)(1). When there is a threat of dissipation, a court should

1	direct a "PACA debtor to escrow its proceeds from produce sales, identify its receivables, and
2	inventory its assets." Frio Ice, S.A., 918 F.2d at 159. SFI also recognizes that the \$88,890.00 due
3	to it is a small portion of the overall assets in this case and does not wish to interfere with the
4	rights of lienholders in their collateral. But, PACA trust assets are not part of the Debtors'
5	bankruptcy estates and cannot be diverted to lienholders while PACA trust beneficiaries remain
6	unpaid. Accordingly, SFI requests that any relief from the automatic stay also provide that funds
7	be segregated in the amount of unpaid PACA trust claims, and that such amounts be promptly
8	paid to PACA trust creditors in accordance with PACA. 7 U.S.C. § 499b(4).
9	IV. <u>CONCLUSION</u>
10	Based on the controlling law and argument set forth above, Superior Creditors
11	respectfully request that any that any relief from the automatic stay granted by the Court
12	specifically provide that sufficient funds shall be segregated to ensure that PACA trust creditors
13	are paid in full, that such payments be promptly made, and that Superior Creditors be awarded
14	such other and further relief as the Court deems just and proper.
15	Dated: November 11, 2019
16	SUSSMAN SHANK LLP
17	By: /s/ Kristen G. Hilton
18	Kristen G. Hilton, OSB No. 151950 Jeffrey C. Misley, OSB No. 850674
19	Attorneys for Attorneys for Superior Foods, Inc.
20	and Superior Foods International, LLC
21	MCCARRON & DIESS
22	Kate Ellis, <i>Admitted Pro Hac Vice</i> Co-Counsel for Superior Foods, Inc. and Superior
23	Foods International, LLC
24	
25	

# NORPAC FOODS INC

## Print

## License

License No. 19006059 Date Issued

1931-12-01 Anniversary Date 2020-12-01

Status

Active with Bankruptcy

# Contacts

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Emai

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## Business Address

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OR **Zip** 97302

#### ☑ Mailing Address

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City SALEM State

**Zip** 97309

# Informal Complaints

No. of Informal Reparation Complaints

1

No. of Disputed Informal Reparation Complaints

0

## Formal Complaints

No. of Formal Reparation Complaints

0

No. of Disputed Formal Reparation Complaint

0

Total Formal Claim Amount

\$0.00

# Reported Principal(s) (First & Last Name, Entity Name, Estate or Trust Name)

STEVE KOCH

GARY BUTLER

KEN HENDRICKS

Caleb Williams

SHAWN CAMPBELL DOUG ZIELINSKI

DELBERT HAENER

ALAN KEUDELL

ROBERT MAY

GARY COOK RICHARD MUNEKIYO

TOM FESSLER

# Trade Name(s)

FLAV-R-PAC

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1/2

WEST PAC

# Branch(es)

Branch Name	City	State
NORPAC FOODS INC	BROOKS	OR
the second of the contract of		
NORPAC FOODS INC	SALEM	OR

# HERMISTON FOODS LLC

## Print

## License

License No.

Date Issued

**Anniversary Date** 

Status

Active

## Contacts

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State

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Zip

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City SALEM

State

OR

Zip

97309

# Informal Complaints

No. of Informal Reparation Complaints

0

No. of Disputed Informal Reparation Complaints

0

# Formal Complaints

No. of Formal Reparation Complaints

0

No. of Disputed Formal Reparation Complaint

Total Formal Claim Amount

\$0.00

# Reported Principal(s) (First & Last Name, Entity Name, Estate or Trust Name)

# Trade Name(s)

# Branch(es)

Branch Name

City

State

# SUPERIOR FOODS INTERNATIONAL LLC

## Print

#### License

License No. 20180851 Date Issued

2018-06-20

Anniversary Date

2020-06-20

Status Active

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#### Business Address

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City

WATSONVILLE

State CA

Zip

95076

## ☑ Mailing Address

Address

City

State

Zip

#### Informal Complaints

No. of Informal Reparation Complaints

0

No. of Disputed Informal Reparation Complaints

0

# 

No. of Formal Reparation Complaints

0

No. of Disputed Formal Reparation Complaint

0

Total Formal Claim Amount

\$0.00

# Reported Principal(s) (First & Last Name, Entity Name, Estate or Trust Name)

DAVID MOORE MARCO CRUZ MEYER LEWIS LETTUNICH

# Trade Name(s)

# Branch(es)

Branch Name

City

State

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11/08/19 11:46 AM

Date PO Number Order

#### Superior Foods International Detail Aging Report As Of 11/08/19 Based On Due Date Numeric Sort From 0605 To 0605

Terms Type Future Current 31-Days 61-Days 91-Days 121-Days

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EXHIBIT B Page 3 of 6

Case 19-62584-pcm11 Doc 381 Filed 11/12/19

Page 1

Balance



Superior Foods International 275 WESTGATE DRIVE WATSONVILLE, CA 95076

(831) 728-3691 FAX (831) 728-0926 (800) 445-9999

INVOICE	<b>No</b> . 0437699
customer no. 0605	INVOICE DATE 10/18/19
P.O. No. 20194163	REQUESTED SHIP DATE 10/15/19
TERMS NET 30 DAYS	SHIP VIA DELIVERED
FREIGHT TERMS PPD SUPERIOR	salesperson L TERRY
F.O.B. SALEM, OR	

SHIP TO

SOLD TO

**INVOICE COPY** 

NORPAC FOODS INC P.O. BOX 14444 SALEM, OR 97309-5012

LINEAGE LOGISTICS 2525 EWALD ST SE SALEM, OR 97302

UNITS	BUYER CODE	LABEL	GRD	PACK SIZE		PRODUCT DESCRIPTION	STYLE TYPE	UNIT PRICE	AMOUNT \$US
44000		A SFI PO	194	TOTES	PEA	PODS	WHOLE	.7700	33880.00
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						e e e e e e e e e e e e e e e e e e e			
				-					

The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C.499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received.

YOU MAY TAKE A DISCOUNT OF:  .00 AND REMIT THE NET OF:  .00 33,880.00	OTHERWISE, PLEASE PAY FULL INVOICE AMOUNT \$US 33,880.00
---	--

NOTE: All claims and deductions for merchandise short or damage will be allowed only when accompanied by an OS&D report properly completed by delivery carrier or receiving warehouse. A FINANCE CHARGE OF 1.5% per month (18% per year) or the maximum legal rate will be charged on past due accounts. THE COST OF COLLECTION, including ATTORNEYS FEES, will be charged on past due accounts whenever such costs are incurred.

EXHIBIT B Page 4 of 6



SUPERIOR Superior Foods International 275 WESTGATE DRIVE WATSONVILLE, CA 95076

(831) 728-3691 FAX (831) 728-0926 (800) 445-9999

INVOICE	No. 0435074
customer no. 0605	INVOICE DATE 10/25/19
P.O. №. 20193876	REQUESTED SHIP DATE 10/20/19
TERMS NET 30 DAYS	SHIP VIA DELIVERED
FREIGHT TERMS PPD SUPERIOR	SALESPERSON L TERRY
F.O.B. SALEM, OR	

# **INVOICE COPY**

SOLD TO

SHIP TO

NORPAC FOODS INC P.O. BOX 14444 SALEM, OR 97309-5012

LINEAGE LOGISTICS 2525 EWALD ST SE SALEM, OR 97302

UNITS	BUYER CODE	LABEL	GRD	PACK SIZE	PRODUCT DESCRIPTION	STYLE TYPE	UNIT PRICE	AMOUNT \$US
38000		1-2" A1 SFI PO 40 TOTI	193 3S	TOTES 308	BROCCOLI	FLORETS	.7250	27550.00
			enterprise proportion and the control of the contro					
	,							
			And the reservoir sets sets and the set of t					

The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C.499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received.

NOTE: All claims and deductions for merchandise short or damage will be allowed only when accompanied by an OS&D report properly completed by delivery carrier or receiving warehouse. A FINANCE CHARGE OF 1.5% per month (18% per year) or the maximum legal rate will be charged on past due accounts. THE COST OF COLLECTION, including ATTORNEYS FEES, will be charged on past due accounts whenever such costs are incurred.

EXHIBIT B Page 5 of 6



# Superior Foods International 275 WESTGATE DRIVE WATSONVILLE, CA 95076

(831) 728-3691 FAX (831) 728-0926 (800) 445-9999

INVOICE	<b>No.</b> 0435073
CUSTOMER NO. 0605	INVOICE DATE 10/22/19
P.O. No. 20193875	REQUESTED SHIP DATE 10/20/19
TERMS NET 30 DAYS	SHIP VIA DELIVERED
FREIGHT TERMS PPD SUPERIOR	SALESPERSON L TERRY
FOR	

# **INVOICE COPY**

SOLD TO

SHIP TO

NORPAC FOODS INC P.O. BOX 14444 SALEM, OR 97309-5012 SALEM, OR LINEAGE LOGISTICS 2525 EWALD ST SE SALEM, OR 97302

UNITS	BUYER	LABEL	GRD	PACK SIZE	PRODUCT DESCRIPTION	STYLE TYPE	UNIT PRICE	AMOUNT SUS
38000	BUYER	1-2" A1 SFI PO 40 TOTH	193	PACK SIZE TOTES 307	PRODUCT DESCRIPTION  BROCCOLI	STYLE TYPE FLORETS	UNIT PRICE . 7250	AMOUNT SUS

The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C.499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received.

YOU MAY TAKE A DISCOUNTOF:	AND REMIT THE NET OF: 27,550.00	IF PAYMENT HAS BEEN RECEIVED BY US ON OR BEFORE:	OTHERWISE, PLEASE PAY FULL INVOICE AMOUNT \$US	27,550.00
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NOTE: All claims and deductions for merchandise short or damage will be allowed only when accompanied by an OS&D report properly completed by delivery carrier or receiving warehouse. A FINANCE CHARGE OF 1.5% per month (18% per year) or the maximum legal rate will be charged on past due accounts. THE COST OF COLLECTION, including ATTORNEYS FEES, will be charged on past due accounts whenever such costs are incurred.

EXHIBIT B Page 6 of 6

1	<u>CERTIFICATE OF SERVICE</u>				
2	I, Joanna M. Bolstad, declare as follows:				
3	I am employed in the County of Multnomah, state of Oregon; I am over the age of				
4	eighteen years and am not a party to this action; my business address is 1000 SW Broadway,				
5	Suite 1400, Portland, Oregon 97205-3089, in said county and state.				
6	I certify that on November 11, 2019, I served via first class mail, a full and correct copy				
7	of the foregoing OMNIBUS LIMITED OBJECTION TO: (A) PROPOSED ORDER				
8	GRANTING COBANK, ACB RELIEF FROM THE AUTOMATIC STAY; (B) CASTLE				
9	ROCK FARMING, LLC'S EMERGENCY MOTION FOR RELIEF FROM				
10	AUTOMATIC STAY [DOC. 375]; AND (C) SEMINIS VEGETABLE SEEDS, INC.'S				
11	EMERGENCY MOTION FOR RELIEF FROM AUTOMATIC STAY [DOC. 377] to the				
12	parties of record, addressed as follows:				
13	Alvarez & Marsal North America, LLC				
14	425 Market St San Francisco, CA 94105				
15	RONALD DAVID PAUL BRUCKMANN				
16	Shumaker, Loop & Kendrick, LLP 101 S Tryon St #2200				
17	Charlotte, NC 28280				
18	SCOTT CARGILL				
19	Lowenstein Sandler LLP One Lowenstein Dr				
20	Roseland, NJ 07068				
21	HM Clause, Inc.				
22	26 Cousteau Place, Ste. 210 Davis, CA 95618				
23	International Paper Co.				
24	6400 Poplar Ave.				
25	Memphis, TN 38197				
26					

1	CHRISTOPHER M. KIERNAN Blakeley LLP	
2	18500 Von Karman Ave #530 Irvine, CA 92612	
4	Kurtzman Carson Consultants LLC	
5	222 N Pacific Coast Hwy 3rd Fl El Segundo, CA 90245	
6	BARRETT MARUM	
7	379 Lytton Ave Palo Alto, CA 94301-1479	
8	Mohawk Northern Plastics, LLC dba Ampac	
9 10	701 A. Street NE Auburn, WA 98002	
11	BRUCE S NATHAN	
12	1251 Avenue of the Americas New York, NY 10020	
13	JEFFREY D. PROL Lowenstein Sandler LLP	
14	One Lowenstein Dr	
15 16	Roseland, NJ 07068  Roseland, Corporation of America	
17	Packaging Corporation of America 1 N. Field Court Lake Forest, IL 60045	
18	Pension Benefit Guaranty Corp	
19	1200 K. Street, NW Washington, DC 20005	
20 21	DENNIS M RYAN	
22	2200 Wells Fargo Center 90 S Seventh St	
23	Minneapolis, MN 55402-3901	
24	MICHAEL R. STEWART 2200 Wells Fargo Ctr	
25	90 S. Seventh St Minneapolis, MN 55402-3901	
26	///	

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1	SierraConstellation Partners LLC 400 S Hope St #1050
2	Los Angeles, CA 90071
3	George Smith 9601 Oakmont Lane Stayton, OR 97383
5	
6 7	Syngenta Seeds, LLC PO Box 18300 Greensboro, NC 27419
8	I also certify that on November 11, 2019, I served the above-referenced document(s) on
9	all ECF participants as indicated on the Court's Cm/ECF system.
10	I swear under penalty of perjury that the foregoing is true and correct to the best of my
11	knowledge, information, and belief.
12	Dated: November 11, 2019.
13	/s/ Joanna M. Bolstad
14	Joanna M. Bolstad, Legal Assistant
15	
16	*25423-001 (03312732)
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